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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

In re D. W., a Person Coming Under the
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

D. W.,

Defendant and Appellant.

A145395

(San Francisco County
Super. Ct. No. JW13-6122)

INTRODUCTION

Pursuant to *People v. Wende* (1979) 25 Cal.3d 436, counsel for appellant requests this court independently review the record on appeal in this case. Appellant has been advised by his counsel of his right to file a supplemental brief with this court within 30 days of the date counsel's brief was filed. Appellant has filed no supplemental brief. We have reviewed the record as requested and conclude the appeal should be denied and the judgment affirmed.

STATEMENT OF THE CASE

A. Jurisdiction and Disposition

On September 4, 2013, the District Attorney of San Francisco filed a wardship petition (Welf. & Inst. Code, § 602, subd. (a))¹ alleging appellant had committed certain

¹ All further unspecified statutory references are to the Welfare and Institutions Code.

crimes: Count 1, first degree robbery (Pen. Code, § 212.5, subd. (a)) and count 2, assault by means of force likely to cause great bodily injury (Pen. Code, § 245, subd. (a)(4)). The petition also alleged appellant inflicted great bodily injury during the commission of both offenses. (Pen. Code, § 12022.7, subd. (a)).

Appellant was detained on September 5, 2013. On September 20 and 23, 2013, the trial court conducted a jurisdictional hearing. The court sustained the petition, finding all charges and allegations established beyond a reasonable doubt. At the disposition hearing on October 7, 2013, the court struck the great bodily injury allegation on count 2. The minor was placed on probation and committed to Log Cabin Ranch.

B. Post-disposition Proceedings.

On October 22, 2013, appellant filed a notice of appeal (see *People v. D.W.* (June 17, 2014, A140062 [nonpub. opn.]). On March 19, 2014, he filed a petition for writ of habeas corpus contending he received ineffective assistance of counsel when his attorney failed to properly advise him about a plea bargain. (*In re D. W.*, A141303). On June 13, 2014, this court issued an order to show cause on the habeas petition and remanded the case to the trial court for a determination of the ineffective assistance of counsel issue.

On August 13, 2014, the district attorney filed a return to the petition for writ of habeas corpus, conceding the minor in fact received ineffective assistance of counsel. On August 18, 2014, the trial court affirmed the claim of ineffective assistance. Consequently, it struck count 2 and the great bodily injury enhancements on both counts and set aside the disposition.

We note that during the pendency of this appeal, the minor finished his sentence at Log Cabin Ranch and was released on probation. He enrolled in junior college and obtained employment at Target.

At a disposition hearing on January 14, 2015, the trial court directed appellant to Log Cabin Ranch with credit for time served, and ordered him to pay restitution to the

victim, as well as certain fines. The minor received probation, was ordered to live with his grandmother, and directed to obey all laws.

Unfortunately, appellant was arrested on February 3, 2015, for felony charges of two counts of aggravated assault (Pen. Code, § 245, subd. (a)(4)), and two counts of felony injury on an elderly person (Pen. Code, § 368, subd. (b)). Appellant was an adult at the time of this arrest. On April 16, 2015, appellant pleaded guilty to two counts of felony assault on elderly persons and the trial court sentenced him to probation with one year in the county jail.

A contested hearing on the termination of appellant's juvenile probation was held on June 11, 2015. His attorney maintained appellant had satisfactorily completed his probation because he finished the program at Log Cabin Ranch and completed restitution to the victim and therefore moved to have appellant's wardship petition dismissed and his juvenile record sealed under section 786. The court, however, denied the motion. The trial court believed the recent adult convictions for two felony assaults, as well as the failure to pay state mandated fines and fees, precluded dismissal and record-sealing. The trial court did order juvenile probation terminated unsatisfactorily.

On June 11, 2015, appellant filed his notice of appeal.

STATEMENT OF FACTS

The underlying offense involving appellant as a juvenile took place on August 30, 2013. The victim of the robbery was riding a Muni bus in San Francisco. Appellant, along with certain associates, confronted the victim on the bus. They knocked him to the floor and kicked him in the head and torso. The victim's wallet was taken and \$20 removed. A video camera on the bus captured the incident. A police officer identified appellant as one of the assailants. When interviewed by police, appellant admitted taking the wallet but denied participating in the actual assault.

ANALYSIS AND CONCLUSION

We have reviewed this case after granting the habeas petition. We find nothing irregular in the proceedings since remand. The trial court correctly found appellant had failed to satisfactorily complete probation since appellant had failed to pay outstanding fines and fees, and, more importantly, sustained adult convictions for assaulting elderly persons. Accordingly, appellant's motion to dismiss the wardship petition and seal his juvenile record pursuant to section 786 was properly denied.

DISPOSITION

The judgment is affirmed.

DONDERO, J.

We concur:

HUMES, P.J.

MARGULIES, J.

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